HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.15273 of 1996

Between:

S.Asha Bee …Petitioner.

AND

Mandal Revenue Officer,

Madanapalle, Chittoor District & another. …Respondents.

:: O R D E R ::

Counsel for the Petitioner : Sri S.S. Bhatt

Counsel for the Respondents : Government Pleader for Revenue

7th JUNE 2006

The petitioner, who was granted a licence for planting trees in government poramboke measuring Ac.0.80 cents situated in Bandamidakammapalle Village has successfully used the judicial process to her advantage and continued to occupy the land for more than a decade and half. Now she is seeking a direction for perpetuating her possession indefinitely by projecting that Mandal Revenue Officer, Madanapalle, Chittoor District is threatening to dispossess her.

A perusal of the record shows that on the strength of the licence granted by the competent authority on 10-11-1990 enabling her to plant trees on the land described hereinabove and by asserting that some private individuals are trying to dispossess her, the petitioner filed suit for permanent injunction in the court of Principal District

Munsif, Madanapalle. The same was registered as O.S.No. 275 of 1994. The trial court decreed the suit on 31-10-1994. After one year and nine months she instituted the present petition and persuaded the Court to pass an interim order against her threatened dispossession.

A perusal of the averments contained in the affidavit of the petition shows that she has made an allegation of threatened dispossession by stating that first respondent along with Surveyor and others came to the site and tried to measure the land and she learnt from first respondent i.e., Mandal Revenue Officer that she is likely to be dispossessed for the purpose of assigning the land to others.

I have heard learned counsel for the parties and perused the record.

Although, the respondents have not chosen to file counter affidavit and this omission is sought to be encashed by the learned counsel for the petitioner to the advantage of her client, I have not at all persuaded to grant relief to her. A bare reading of the licence (the date of the licence has been conveniently omitted by the petitioner) shows that the concerned authority had simply granted permission to the petitioner to plant trees on the land with a clear stipulation that the same would not confer any right upon her in respect of the land in question. In my considered view, this permission cannot be equated with lease or a document conferring title on the petitioner and on its strength the petitioner cannot claim right of continued possession. In any case, the permission granted for planting trees did not create a right in favour of the petitioner to retain possession for indefinite period.

That apart, the petitioner's assertion regarding threatened dispossession is too vague to be acted upon. She has not specified the date on which Mandal Revenue Officer, Madanapalle is said to have visited her land along with the Surveyor and tried to take possession. She has also not disclosed the date on which the officer concerned gave out that the land will be assigned to some others. Therefore, on the basis of a vague and bald assertion contained in the affidavit, which has not even been verified as per Rule 5 of Writ Proceedings Rules, 1977 or Order XIX, Rule 3 of the Code of Civil Procedure cannot be made basis for entertaining the petitioner's grievance.

In the premise aforesaid, I hold that the writ petition is wholly meritless and is liable

to be dismissed. Ordered accordingly.

I would have saddled the petitioner with exemplary costs for having filed a frivolous litigation but refrain from doing so because:

1. a coordinate Bench had thought it proper to entertain her grievance in the year 1996 and pass an interim order; and

2. the respondents have slept over the matter and did not even bother to file written statement for almost one decade.

G.S. SINGHVI, C.J.

7th June, 2006.

ARS/GRR